

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILLIAM A. GROSS CONSTRUCTION ASSOCIATES,
INC.,

Plaintiff,

- against -

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Defendant.

----- x
AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY,

Third-Party Plaintiff,

- against -

CAULDWELL WINGATE COMPANY, LLC,

Third party plaintiff.

----- x
CAULDWELL WINGATE COMPANY, LLC,

Fourth-Party Plaintiff,

- against -

DORMITORY AUTHORITY OF THE STATE OF NEW
YORK,

Fourth-Party Defendant.

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07-CV-10639 (LAK) (AJP)

**ANSWER AND JURY DEMAND
OF FIFTH PARTY DEFENDANT
BEAUBOIS CANADA, INC.**

DORMITORY AUTHORITY OF THE STATE OF NEW YORK,

Fifth-Party Plaintiff,

- against -

A. WILLIAMS TRUCKING & BACKHOE TRENCHING, INC., ASPRO MECHANICAL CONTRACTORS, INC., BEAUBOIS CANADA, INC., BOVIS LEND LEASE LMB, INC., CNA SURETY CORPORATION D/B/A AMERICAN CASUALTY COMPANY OF READING, PA, DIERKS HEATING COMPANY, INC., ENCLOS CORPORATION, FIVE STAR ELECTRIC CORPORATION, FUTURE TECH CONSULTANTS OF NEW YORK, INC., HERITAGE AIR SYSTEMS, INC., HUGH O'KANE ELECTRIC CO., LLC, MATERIALS TESTING LAB, INC., PYRAMID FIRE PROTECTION, INC., RAFAEL VINOLY ARCHITECTS P.C., SMI-OWEN STEEL COMPANY, INC., STONEWALL CONTRACTING CORPORATION, BEAUBOIS LTD. SWINGSTAGE DIVISION,

Fifth-Party Defendant

x

Fifth Party Defendant BEAUBOIS CANADA, INC. ("Beaubois"), by and through its counsel, McCarter & English, LLP responds to Fifth Party Plaintiff Dormitory Authority Of The State Of New York's ("DASNY") Fifth Party Complaint as follows:

NATURE OF THE ACTION

1. Beaubois denies the allegations contained in paragraph "1" of the Fifth Party Complaint to the extent they are directed against Beaubois, and otherwise denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1".

2. Beaubois denies the allegations contained in paragraph "2" of the Fifth Party Complaint to the extent they are directed against Beaubois, except admits that Beaubois was

engaged by DASNY pursuant to a written agreement, and refers to the agreement for the terms and conditions contained therein. Beaubois otherwise denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “2”.

JURISDICTION AND VENUE

3. Paragraph “3” of the Fifth Party Complaint comprises a statement of legal opinion to which no responsive pleading is required.

4. Paragraph “4” of the Fifth Party Complaint comprises a statement of legal opinion to which no responsive pleading is required.

PARTIES

5. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “5” of the Fifth Party Complaint.

6. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “6” of the Fifth Party Complaint.

7. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “7” of the Fifth Party Complaint.

8. Beaubois admits the allegations contained in paragraph “8” of the Fifth Party Complaint.

9. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “9” of the Fifth Party Complaint.

10. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “10” of the Fifth Party Complaint.

11. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “11” of the Fifth Party Complaint.

12. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “12” of the Fifth Party Complaint.

13. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “13” of the Fifth Party Complaint.

14. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “14” of the Fifth Party Complaint.

15. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “15” of the Fifth Party Complaint.

16. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “16” of the Fifth Party Complaint.

17. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “17” of the Fifth Party Complaint.

18. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “18” of the Fifth Party Complaint.

19. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “19” of the Fifth Party Complaint.

20. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “20” of the Fifth Party Complaint.

21. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “21” of the Fifth Party Complaint.

22. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “22” of the Fifth Party Complaint.

FACTUAL ALLEGATIONS

23. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “23” of the Fifth Party Complaint.

24. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “24” of the Fifth Party Complaint.

25. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “25” of the Fifth Party Complaint.

26. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “26” of the Fifth Party Complaint.

27. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “27” of the Fifth Party Complaint.

28. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “28” of the Fifth Party Complaint.

The Project Contracts and Problems Encountered During the Project

29. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “29” of the Fifth Party Complaint.

The Project Design

30. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “30” of the Fifth Party Complaint.

31. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “31” of the Fifth Party Complaint.

32. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “32” of the Fifth Party Complaint.

33. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “33” of the Fifth Party Complaint.

34. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “34” of the Fifth Party Complaint.

35. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “35” of the Fifth Party Complaint.

Construction Management

36. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “36” of the Fifth Party Complaint.

37. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “37” of the Fifth Party Complaint.

38. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “38” of the Fifth Party Complaint.

39. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “39” of the Fifth Party Complaint.

40. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “40” of the Fifth Party Complaint.

41. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “41” of the Fifth Party Complaint.

Excavation and Foundation Work

42. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “42” of the Fifth Party Complaint.

43. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “43” of the Fifth Party Complaint.

44. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “44” of the Fifth Party Complaint.

45. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “45” of the Fifth Party Complaint.

46. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “46” of the Fifth Party Complaint.

Structural Steel Work

47. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “47” of the Fifth Party Complaint.

48. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “48” of the Fifth Party Complaint.

49. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “49” of the Fifth Party Complaint.

50. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “50” of the Fifth Party Complaint.

51. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “51” of the Fifth Party Complaint.

52. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “52” of the Fifth Party Complaint.

53. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “53” of the Fifth Party Complaint.

54. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “54” of the Fifth Party Complaint.

55. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “55” of the Fifth Party Complaint.

56. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “56” of the Fifth Party Complaint.

57. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “57” of the Fifth Party Complaint.

58. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “58” of the Fifth Party Complaint.

59. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “59” of the Fifth Party Complaint.

60. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “60” of the Fifth Party Complaint.

Exterior Work

61. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “61” of the Fifth Party Complaint.

62. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “62” of the Fifth Party Complaint.

General Contract Work

63. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “63” of the Fifth Party Complaint.

64. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “64” of the Fifth Party Complaint.

65. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “65” of the Fifth Party Complaint.

66. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “66” of the Fifth Party Complaint.

Heating, Ventilation and Air Conditioning (“HVAC”)

67. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “67” of the Fifth Party Complaint.

68. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “68” of the Fifth Party Complaint.

69. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “69” of the Fifth Party Complaint.

70. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “70” of the Fifth Party Complaint.

Sheet Metal Work

71. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “71” of the Fifth Party Complaint.

72. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “72” of the Fifth Party Complaint.

73. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “73” of the Fifth Party Complaint.

74. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “74” of the Fifth Party Complaint.

Plumbing

75. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “75” of the Fifth Party Complaint.

76. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “76” of the Fifth Party Complaint.

77. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “77” of the Fifth Party Complaint.

Fire Protection

78. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “78” of the Fifth Party Complaint.

79. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “79” of the Fifth Party Complaint.

Building Power and Fire Alarm Systems

80. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “80” of the Fifth Party Complaint.

81. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “81” of the Fifth Party Complaint.

82. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “82” of the Fifth Party Complaint.

Low Voltage Electrical Work

83. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “83” of the Fifth Party Complaint.

84. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “84” of the Fifth Party Complaint.

Millwork

85. Beaubois admits that it entered into contracts with DASNY and refers to the contracts for the terms and conditions contained therein. Beaubois otherwise denies the allegations contained in paragraph “85” of the Fifth Party Complaint.

86. Beaubois denies the allegations contained in paragraph “86” of the Fifth Party Complaint.

87. Beaubois denies the allegations contained in paragraph “87” of the Fifth Party Complaint.

Façade Maintenance

88. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “88” of the Fifth Party Complaint..

89. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “89” of the Fifth Party Complaint..

Testing

90. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “90” of the Fifth Party Complaint.

91. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “91” of the Fifth Party Complaint.

92. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “92” of the Fifth Party Complaint.

93. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “93” of the Fifth Party Complaint.

94. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “94” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FIRST CLAIM FOR RELIEF

95. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “94” of the Fifth Party Complaint as if fully set forth herein.

96. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “96” of the Fifth Party Complaint.

97. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “97” of the Fifth Party Complaint.

98. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “98” of the Fifth Party Complaint.

99. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “99” of the Fifth Party Complaint.

100. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “100” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE SECOND CLAIM FOR RELIEF

101. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “100” of the Fifth Party Complaint as if fully set forth herein.

102. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “102” of the Fifth Party Complaint.

103. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “103” of the Fifth Party Complaint.

104. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “104” of the Fifth Party Complaint.

105. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “105” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRD CLAIM FOR RELIEF

106. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “105” of the Fifth Party Complaint as if fully set forth herein.

107. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “107” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FOURTH CLAIM FOR RELIEF

108. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “107” of the Fifth Party Complaint as if fully set forth herein.

109. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “109” of the Fifth Party Complaint.

110. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “110” of the Fifth Party Complaint.

111. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “111” of the Fifth Party Complaint.

112. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “112” of the Fifth Party Complaint.

113. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “113” of the Fifth Party Complaint.

114. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “114” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FIFTH CLAIM FOR RELIEF

115. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “114” of the Fifth Party Complaint as if fully set forth herein.

116. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “116” of the Fifth Party Complaint.

117. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “117” of the Fifth Party Complaint.

118. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “118” of the Fifth Party Complaint.

119. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “119” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE SIXTH CLAIM FOR RELIEF

120. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “119” of the Fifth Party Complaint as if fully set forth herein.

121. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “121” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE SEVENTH CLAIM FOR RELIEF

122. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “121” of the Fifth Party Complaint as if fully set forth herein.

123. Beaubois refers to the referenced contracts for the terms and conditions contained therein and otherwise denies the allegations contained in paragraph “123” of the Fifth Party Complaint.

124. Beaubois denies the allegations contained in paragraph “124” of the Fifth Party Complaint.

125. Beaubois denies the allegations contained in paragraph “125” of the Fifth Party Complaint.

126. Beaubois denies the allegations contained in paragraph “126” of the Fifth Party Complaint.

127. Beaubois denies the allegations contained in paragraph “127” of the Fifth Party Complaint.

128. Beaubois denies the allegations contained in paragraph “128” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE EIGHTH CLAIM FOR RELIEF

129. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “128” of the Fifth Party Complaint as if fully set forth herein.

130. Beaubois refers to the referenced contracts for the terms and conditions contained therein and otherwise denies the allegations contained in paragraph “130” of the Fifth Party Complaint.

131. Beaubois denies the allegations contained in paragraph “131” of the Fifth Party Complaint.

132. Beaubois denies the allegations contained in paragraph “132” of the Fifth Party Complaint.

133. Beaubois denies the allegations contained in paragraph “133” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE NINTH CLAIM FOR RELIEF

134. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “133” of the Fifth Party Complaint as if fully set forth herein.

135. Paragraph “135” of the Fifth Party Complaint is a prayer for relief to which no responsive pleading is required.

AS AND FOR AN ANSWER TO THE TENTH CLAIM FOR RELIEF

136. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “135” of the Fifth Party Complaint as if fully set forth herein.

137. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “137” of the Fifth Party Complaint.

138. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “138” of the Fifth Party Complaint.

139. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “139” of the Fifth Party Complaint.

140. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “140” of the Fifth Party Complaint.

141. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “141” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE ELEVENTH CLAIM FOR RELIEF

142. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “141” of the Fifth Party Complaint as if fully set forth herein.

143. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “143” of the Fifth Party Complaint.

144. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “144” of the Fifth Party Complaint.

145. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “145” of the Fifth Party Complaint.

146. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “146” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWELFTH CLAIM FOR RELIEF

147. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “146” of the Fifth Party Complaint as if fully set forth herein.

148. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “148” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTEENTH CLAIM FOR RELIEF

149. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “148” of the Fifth Party Complaint as if fully set forth herein.

150. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “150” of the Fifth Party Complaint.

151. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “151” of the Fifth Party Complaint.

152. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “152” of the Fifth Party Complaint.

153. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “153” of the Fifth Party Complaint.

154. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “154” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FOURTEENTH CLAIM FOR RELIEF

155. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “154” of the Fifth Party Complaint as if fully set forth herein.

156. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “156” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FIFTEENTH CLAIM FOR RELIEF

157. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “156” of the Fifth Party Complaint as if fully set forth herein.

158. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “158” of the Fifth Party Complaint.

159. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “159” of the Fifth Party Complaint.

160. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “160” of the Fifth Party Complaint.

161. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “161” of the Fifth Party Complaint.

162. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “162” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE SIXTEENTH CLAIM FOR RELIEF

163. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “162” of the Fifth Party Complaint as if fully set forth herein.

164. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “164” of the Fifth Party Complaint.

165. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “165” of the Fifth Party Complaint.

166. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “166” of the Fifth Party Complaint.

167. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “167” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE SEVENTEENTH CLAIM FOR RELIEF

168. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “167” of the Fifth Party Complaint as if fully set forth herein.

169. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “169” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE EIGHTEENTH CLAIM FOR RELIEF

170. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “169” of the Fifth Party Complaint as if fully set forth herein.

171. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “171” of the Fifth Party Complaint.

172. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “172” of the Fifth Party Complaint.

173. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “17” of the Fifth Party Complaint.

174. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “174” of the Fifth Party Complaint.

175. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “175” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE NINETEENTH CLAIM FOR RELIEF

176. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “175” of the Fifth Party Complaint as if fully set forth herein.

177. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “177” of the Fifth Party Complaint.

178. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “178” of the Fifth Party Complaint.

179. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “179” of the Fifth Party Complaint.

180. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “180” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTIETH CLAIM FOR RELIEF

181. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “180” of the Fifth Party Complaint as if fully set forth herein.

182. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “182” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTY-FIRST CLAIM FOR RELIEF

183. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “182” of the Fifth Party Complaint as if fully set forth herein.

184. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “184” of the Fifth Party Complaint.

185. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “185” of the Fifth Party Complaint.

186. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “186” of the Fifth Party Complaint.

187. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “187” of the Fifth Party Complaint.

188. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “188” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTY-SECOND CLAIM FOR RELIEF

189. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “188” of the Fifth Party Complaint as if fully set forth herein.

190. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “190” of the Fifth Party Complaint.

191. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “191” of the Fifth Party Complaint.

192. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “192” of the Fifth Party Complaint.

193. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “193” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTY-THIRD CLAIM FOR RELIEF

194. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “193” of the Fifth Party Complaint as if fully set forth herein.

195. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “190” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTY-FOURTH CLAIM FOR RELIEF

196. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “195” of the Fifth Party Complaint as if fully set forth herein.

197. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “197” of the Fifth Party Complaint.

198. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “198” of the Fifth Party Complaint.

199. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “199” of the Fifth Party Complaint.

200. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “200” of the Fifth Party Complaint.

201. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “201” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTY-FIFTH CLAIM FOR RELIEF

202. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “201” of the Fifth Party Complaint as if fully set forth herein.

203. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “203” of the Fifth Party Complaint.

204. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “204” of the Fifth Party Complaint.

205. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “205” of the Fifth Party Complaint.

206. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “206” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTY-SIXTH CLAIM FOR RELIEF

207. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “206” of the Fifth Party Complaint as if fully set forth herein.

208. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “208” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTY-SEVENTH CLAIM FOR RELIEF

209. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “208” of the Fifth Party Complaint as if fully set forth herein.

210. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “210” of the Fifth Party Complaint.

211. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “211” of the Fifth Party Complaint.

212. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “212” of the Fifth Party Complaint.

213. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “213” of the Fifth Party Complaint.

214. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “214” of the Fifth Party Complaint.

215. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “215” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTY-EIGHTH CLAIM FOR RELIEF

216. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “215” of the Fifth Party Complaint as if fully set forth herein.

217. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “217” of the Fifth Party Complaint.

218. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “218” of the Fifth Party Complaint.

219. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “219” of the Fifth Party Complaint.

220. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “220” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE TWENTY-NINTH CLAIM FOR RELIEF

221. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “220” of the Fifth Party Complaint as if fully set forth herein.

222. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “222” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTIETH CLAIM FOR RELIEF

223. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “222” of the Fifth Party Complaint as if fully set forth herein.

224. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “224” of the Fifth Party Complaint.

225. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “225” of the Fifth Party Complaint.

226. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “226” of the Fifth Party Complaint.

227. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “227” of the Fifth Party Complaint.

228. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “228” of the Fifth Party Complaint.

229. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “229” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTY-FIRST CLAIM FOR RELIEF

230. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “229” of the Fifth Party Complaint as if fully set forth herein.

231. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “231” of the Fifth Party Complaint.

232. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “232” of the Fifth Party Complaint.

233. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “233” of the Fifth Party Complaint.

234. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “234” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTY-SECOND CLAIM FOR RELIEF

235. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “234” of the Fifth Party Complaint as if fully set forth herein.

236. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “236” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTY-THIRD CLAIM FOR RELIEF

237. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “236” of the Fifth Party Complaint as if fully set forth herein.

238. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “238” of the Fifth Party Complaint.

239. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “239” of the Fifth Party Complaint.

240. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “240” of the Fifth Party Complaint.

241. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “241” of the Fifth Party Complaint.

242. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “242” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTY-FOURTH CLAIM FOR RELIEF

243. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “242” of the Fifth Party Complaint as if fully set forth herein.

244. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “244” of the Fifth Party Complaint.

245. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “245” of the Fifth Party Complaint.

246. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “246” of the Fifth Party Complaint.

247. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “247” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTY-FIFTH CLAIM FOR RELIEF

248. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “247” of the Fifth Party Complaint as if fully set forth herein.

249. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “249” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTY-SIXTH CLAIM FOR RELIEF

250. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “249” of the Fifth Party Complaint as if fully set forth herein.

251. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “251” of the Fifth Party Complaint.

252. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “252” of the Fifth Party Complaint..

253. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “253” of the Fifth Party Complaint.

254. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “254” of the Fifth Party Complaint.

255. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “255” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTY-SEVENTH CLAIM FOR RELIEF

256. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “255” of the Fifth Party Complaint as if fully set forth herein.

257. Paragraph “257” of the Fifth Party Complaint is a prayer for relief to which no responsive pleading is required.

AS AND FOR AN ANSWER TO THE THIRTY-EIGHTH CLAIM FOR RELIEF

258. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “257” of the Fifth Party Complaint as if fully set forth herein.

259. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “259” of the Fifth Party Complaint.

260. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “260” of the Fifth Party Complaint.

261. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “261” of the Fifth Party Complaint.

262. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “262” of the Fifth Party Complaint.

263. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “263” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE THIRTY-NINTH CLAIM FOR RELIEF

264. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “263” of the Fifth Party Complaint as if fully set forth herein.

265. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “265” of the Fifth Party Complaint.

266. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “266” of the Fifth Party Complaint.

267. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “267” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FORTIETH CLAIM FOR RELIEF

268. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “267” of the Fifth Party Complaint as if fully set forth herein.

269. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “269” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FORTY-FIRST CLAIM FOR RELIEF

270. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “269” of the Fifth Party Complaint as if fully set forth herein.

271. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “271” of the Fifth Party Complaint.

272. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “272” of the Fifth Party Complaint.

273. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “273” of the Fifth Party Complaint.

274. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “274” of the Fifth Party Complaint.

275. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “275” of the Fifth Party Complaint.

276. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “276” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FORTY-SECOND CLAIM FOR RELIEF

277. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “276” of the Fifth Party Complaint as if fully set forth herein.

278. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “278” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FORTY-THIRD CLAIM FOR RELIEF

279. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “278” of the Fifth Party Complaint as if fully set forth herein.

280. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “280” of the Fifth Party Complaint.

281. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “281” of the Fifth Party Complaint.

282. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “282” of the Fifth Party Complaint.

283. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “283” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FORTY-FOURTH CLAIM FOR RELIEF

284. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “283” of the Fifth Party Complaint as if fully set forth herein.

285. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “285” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FORTY-FIFTH CLAIM FOR RELIEF

286. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “285” of the Fifth Party Complaint as if fully set forth herein.

287. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “287” of the Fifth Party Complaint.

288. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “288” of the Fifth Party Complaint.

289. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “289” of the Fifth Party Complaint.

AS AND FOR AN ANSWER TO THE FORTY-SIXTH CLAIM FOR RELIEF

290. Beaubois repeats, realleges and reiterates each and every response to paragraphs “1” through “289” of the Fifth Party Complaint as if fully set forth herein.

291. Beaubois denies having knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “291” of the Fifth Party Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

292. The Fifth Party Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

293. DASNY’s claims are barred in whole or in part by the express provisions of its contract with Beaubois, Ltd.

THIRD AFFIRMATIVE DEFENSE

294. DASNY’s claims are barred by waiver, estoppel and laches.

FOURTH AFFIRMATIVE DEFENSE

295. DASNY's claims are barred by the equitable doctrine of unclean hands.

FIFTH AFFIRMATIVE DEFENSE

296. DASNY's claims are barred in whole or in part by the doctrine of accord and satisfaction.

SIXTH AFFIRMATIVE DEFENSE

297. DASNY's claims are subject to applicable set offs.

SEVENTH AFFIRMATIVE DEFENSE

298. DASNY's claims are limited by its own breach of contract.

EIGHTH AFFIRMATIVE DEFENSE

299. The injuries, damages, and losses alleged in the Fifth Party Complaint, none being admitted, were caused in whole or in part by the negligence of the Fifth Party Plaintiff and/or others over whom Beaubois exercised no control, had no opportunity or right to control, and with whom Beaubois had no legal relationship by which liability could be attributed to it.

NINTH AFFIRMATIVE DEFENSE

300. Fifth Party Plaintiff's alleged loss, damage, injury, harm, expense, diminution, or deprivation alleged, if any, was caused in whole or in part by Fifth Party Plaintiff's failure to exercise reasonable care and diligence to mitigate Plaintiff's alleged damages.

TENTH AFFIRMATIVE DEFENSE

301. The injuries or damages allegedly sustained by Fifth Party Plaintiff can be attributed to several causes and accordingly should be apportioned among the various causes according to respective contribution of each such cause to the harm sustained, if any. If any liability is found against Beaubois, then said liability will constitute 50% or less of the total

liability assigned to all persons liable, and as such, the liability of Beaubois to Fifth Party Plaintiff for non-economic loss shall be limited, and shall not exceed Beaubois' equitable share.

ELEVENTH AFFIRMATIVE DEFENSE

302. Any verdict or judgment rendered against Beaubois must be reduced by those amounts that have been, or will, with reasonable certainty, replace or indemnify Fifth Party Plaintiff, in whole or in part, for any past or future claimed economic loss, from any collateral source such as insurance.

TWELFTH AFFIRMATIVE DEFENSE

303. Beaubois hereby gives notice that it intends to rely upon such other defenses as may become available or apparent during the course of discovery and thus reserves the right to amend this list to assert such defenses.

JURY DEMAND

304. Beaubois demands a trial by jury on all issues triable in this action.

Dated: New York, New York
August 18, 2008

McCarter & English, LLP

/s/ Robert S. Bernstein
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